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7 Attorneys for Defendant, ERNST & YOUNG LLP

8  
9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN JOSE DIVISION

12 DAVID HO, on behalf of himself and others  
13 similarly situated and on behalf of the  
general public and DOES 1-20

14 Plaintiff,

15 v.

16 ERNST & YOUNG LLP

17 Defendant.

Case No. CV 05-04867 JF

[Assigned for all purposes to the Honorable  
Jeremy Fogel, Department 3]

**DECLARATION OF GREGORY W.  
KNOPP IN SUPPORT OF DEFENDANT  
ERNST & YOUNG LLP'S OPPOSITION  
TO PLAINTIFF DAVID HO'S MOTION  
TO COMPEL PRODUCTION OF  
DOCUMENTS**

[DEFENDANT ERNST & YOUNG LLP'S  
OPPOSITION TO PLAINTIFF DAVID HO'S  
THIRD MOTION TO COMPEL AND  
DECLARATION OF BIN W. WOLFE FILED  
CONCURRENTLY HERewith]

Hearing Date: May 29, 2007

Hearing Time: 10:00 a.m.

28  
**DECLARATION OF GREGORY W. KNOPP IN SUPPORT OF DEFENDANT ERNST & YOUNG LLP'S  
OPPOSITION TO PLAINTIFF DAVID HO'S THIRD MOTION TO COMPEL**

CV-05 04867 JF

**DECLARATION OF GREGORY W. KNOPP**

I, Gregory W. Knopp, declare as follows:

1. I am an attorney at law duly licensed to practice in the Northern District of California and a partner in the law firm of Akin Gump Strauss Hauer & Feld LLP, attorneys of record for Defendant Ernst & Young LLP ("Ernst & Young") in this action. I have personal knowledge of the facts stated herein, and if called and sworn as a witness, I would and could testify competently under oath thereto. I submit this declaration in support of Defendant's Opposition to Plaintiff's Third Motion to Compel

2. Attached hereto as **Exhibit A** is a true and correct copy Defendant Ernst & Young's Responses to Plaintiff's Requests for Production of Documents (Set Three).

3. Ernst & Young has not identified any studies or analyses conducted to enhance utilization rates or increase the amount of billable work, or materials containing suggestions to supervisors about making changes regarding the time class members spend on particular activities.

4. At the Joint Case Management Conference for this case, the Court indicated that it would only permit discovery relating to class certification issues prior to a class being certified.

5. Attached hereto as **Exhibit B** is a true and correct copy Defendant Ernst & Young's Supplemental Responses to Plaintiff's First Set of Interrogatories.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 8th day of May, 2007, in Los Angeles, California.

  
\_\_\_\_\_  
Gregory W. Knopp

## **Exhibit A**

1 CATHERINE A. CONWAY (SBN 98366)  
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12 Attorneys for Defendant, ERNST & YOUNG LLP

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
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16 DAVID HO, on behalf of himself and others  
17 similarly situated and on behalf of the  
18 general public and DOES 1-20

19 Plaintiff,

20 v.

21 ERNST & YOUNG LLP

22 Defendant.

Case No. CV 05-04867 JF

[Assigned for all purposes to the Honorable  
Jeremy Fogel, Department 3]

**DEFENDANT ERNST & YOUNG LLP'S  
RESPONSES TO PLAINTIFF'S  
REQUESTS FOR PRODUCTION OF  
DOCUMENTS (SET THREE)**

23 PROPOUNDING PARTY: Plaintiff, DAVID HO

24 RESPONDING PARTY: Defendant, ERNST & YOUNG LLP

25 SET NO.: THREE

26 Defendant Ernst & Young LLP's Responses To Plaintiff's Requests For Production Of Documents (Set Three)

CV 05-04867 JF

EXHIBIT

A

PAGE

2

1 **TO PLAINTIFF AND HIS ATTORNEYS OF RECORD:**

2 Pursuant to Federal Rule of Civil Procedure 34, defendant Ernst & Young LLP ("Defendant" or  
3 "E&Y"), hereby objects and responds as follows to the Request for Production of Documents Set  
4 Three propounded by plaintiff David Ho ("Plaintiff").

5 **I. PRELIMINARY STATEMENT**

6 These responses reflect only the current status of Defendant's knowledge, understanding and  
7 belief respecting the matters about which inquiry has been made. Discovery in this action is  
8 continuing and, consequently, Defendant may not have yet identified all information responsive to this  
9 Request for Production of Documents ("Request"). As discovery in this action proceeds, Defendant  
10 anticipates that it may discover additional or different information or documents. Without in any way  
11 obligating itself to do so, Defendant reserves the right to amend, modify, supplement, clarify or further  
12 explain these responses and objections at any time in the future.

13 Furthermore, these responses are without prejudice to the right of Defendant to use or rely on at  
14 any time, any subsequently discovered information, or information omitted from these responses as a  
15 result of mistake, error, oversight or inadvertence. Defendant further reserves the right to provide  
16 additional information and evidence at any time, and to object on appropriate grounds to the  
17 introduction of any portion of these responses into evidence.

18 These responses are made solely for the purpose of and in relation to discovery conducted in  
19 this case. Each response is given subject to all appropriate objections (including but not limited to  
20 objections concerning competency, privacy, relevancy, specificity, overbreadth, undue burden,  
21 materiality, confidential proprietary or trade secret material, or admissibility), which would require the  
22 exclusion of any response contained herein. All such objections therefore are reserved and may be  
23 interposed at trial.

24 Defendant responds to these Requests as it interprets and understands them. If Plaintiff  
25 subsequently asserts an interpretation of any Request that differs from Defendant's understanding,  
26 Defendant reserves its right to supplement its objections and/or responses herein.

## II. GENERAL OBJECTIONS

The following general objections apply to each Request in Plaintiff's Request for Production of Documents Set Three, in addition to any objections that are addressed to particular Requests or subparts of particular Requests:

Defendant objects to the instructions and definitions set forth in Plaintiff's Requests to the extent they purport to alter Defendant's obligations under Federal Rule of Civil Procedure 34.

Defendant objects to each Request to the extent that it imposes any requirements beyond those of the Federal Rules of Civil Procedure. Such Requests are unduly burdensome and exceed the scope of permissible discovery. Defendant will comply with the Federal Rules of Civil Procedure.

Defendant objects to each Request to the extent that it requires disclosure of matters and communications that are protected by the attorney-client privilege, work product doctrine, third parties' right to privacy or any other applicable privilege or immunity. To the extent a Request can be construed to seek privileged or exempt information, Defendant objects and will produce only non-privileged, non-exempt material.

Defendant objects to each Request to the extent that it requires Defendant to provide information and/or documents not presently in its possession, custody or control or to make inquiries of persons or other entities not affiliated with it.

Defendant's responses herein are based upon its understanding of the Requests propounded to it and are based upon and necessarily limited by the information in existence, presently recollected, and presently discovered during the course of preparing these responses. Defendant reserves the right to amend or supplement its responses in the event that its understanding and/or interpretation of any Request is different from that intended by Plaintiff, or in the event that additional information or documents are discovered.

### REQUEST FOR PRODUCTION NO. 1:

Produce all documents that were used by the defendant that set forth (either as actual operating practices or suggested guidelines or practices) the sort of work duties that either were, or should have been, or were not to be, or should not have been, performed by persons similarly situated to the plaintiff. This request includes, but is not limited to, all memorandums [sic], policy statements,

instructions, or other documents or communications mentioning such work duties that were from, given to, or relied upon, by those employees of the defendant who were responsible for managing and/or giving work assignments to the persons similarly situated to the plaintiff.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

Defendant objects to this Request on the ground that it is overbroad as to time and scope, unduly burdensome, and premature, including because a class has not been certified in this action. Defendant also objects to this Request to the extent that it calls for documents that are protected by attorney-client privilege and/or the work product doctrine. Defendant further objects to this Request on the ground that it is duplicative of Plaintiff's Request for Production No. 2 propounded in Plaintiff's Request For Production Set One. Defendant has already produced responsive documents that describe Plaintiff's job duties. Defendant further objects to this Request on the ground that it is vague and ambiguous as to the terms "sort of work duties that either were, or should have been, or were not to be, or should not have been, performed by persons similarly situated to the plaintiff" and "work duties that were from, given to, or relied upon, by those employees of the defendant who were responsible for managing and/or giving work assignments to the persons similarly situated to the plaintiff."

Subject to and without waiving the foregoing objections, Defendant responds that it will produce job description documents and evaluation forms that pertain to staffs 1 and 2 and seniors 1 and 2.

**REQUEST FOR PRODUCTION NO. 2:**

Produce copies of all "materials on the utilization rate and return."

**RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

Defendant objects to this Request on the ground that it is vague and ambiguous as to the term "materials on the utilization rate and return." Defendant further objects to this Request on the ground that it is overbroad. Defendant also objects to this Request to the extent that it calls for documents that are protected by attorney-client privilege and/or the work product doctrine.

Subject to and without waiving the foregoing objections, Defendant responds that it will produce a non-privileged responsive document that explains the utilization rate.



**REQUEST FOR PRODUCTION NO. 3:**

Provide copies of all documents mentioning complaints made to the defendant that the nature of the work performed by the persons similarly situated to the plaintiff was inappropriate and of a too menial or rote or low level basis, or was otherwise inappropriate, because such persons, based upon their education and/or experience and/or training and/or the representations made by defendant to such persons when they were hired by defendant, or for any other reason, should not be doing such work or that they should be doing work requiring more intellectual application or more non-repetitive mental exertion or the use of more independent judgement [sic] or discretion.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

Defendant objects to this Request on the ground that it is overbroad as to time, unduly burdensome, lacks foundation, and is premature, including because a class has not been certified in this action. Defendant further objects to this Request on the ground that it is compound and vague and ambiguous as to the phrase "the nature of the work performed by the persons similarly situated to the plaintiff was inappropriate and of a too menial or rote or low level basis, or was otherwise inappropriate, because such persons, based upon their education and/or experience and/or training and/or the representations made by defendant to such persons when they were hired by defendant, or for any other reason, should not be doing such work or that they should be doing work requiring more intellectual application or more non-repetitive mental exertion or the use of more independent judgment or discretion." Defendant further objects to this Request to the extent it seeks information, the disclosure of which would constitute an unwarranted invasion of the affected person's constitutional, statutory, and common-law right of privacy and confidentiality. Defendant also objects to this Request to the extent that it calls for documents that are protected by attorney-client privilege and/or the work product doctrine. In addition, Defendant objects to this Request to the extent that it assumes, without factual basis, that there is a "nature of the work performed by the persons similarly situated to the plaintiff."

**REQUEST FOR PRODUCTION NO. 4:**

Produce copies of all documents setting forth instances where defendant's clients objected to client time billings, the nature of such objections being, at least in part, that it was inappropriate to



1 charge such clients for the time consumed by the persons similarly situated to the plaintiff performing  
 2 such work because of the nature of the work (tasks) performed by such persons and upon which such  
 3 client time billings (at least in part) were based.

4 **RESPONSE TO SPECIAL INTERROGATORY NO. 4:**

5 Defendant objects to this Request on the ground that it is overbroad as to time, unduly  
 6 burdensome, lacks foundation, and seeks information not reasonably calculated to lead to the discovery  
 7 of admissible evidence, including because a class has not been certified in this action. Defendant  
 8 further objects to this Request on the ground that it is vague and ambiguous as to the phrase "the nature  
 9 of such objections being, at least in part, that it was inappropriate to charge such clients for the time  
 10 consumed by the persons similarly situated to the plaintiff performing such work because of the nature  
 11 of the work (tasks) performed by such persons and upon which such client time billings (at least in  
 12 part) were based." In addition, Defendant objects to this Request to the extent that it assumes, without  
 13 factual basis, that "it was inappropriate to charge such clients for the time consumed by the persons  
 14 similarly situated to the plaintiff performing such work" and that there exist "persons similarly situated  
 15 to the plaintiff performing such work."

16  
 17 Dated: April 21, 2007

AKIN GUMP STRAUSS HAUER & FELD LLP  
 Catherine A. Conway  
 Gregory W. Knopp  
 S. Adam Spiewak

18  
 19  
 20  
 21 By 

Gregory W. Knopp  
 Attorneys for Defendant Ernst & Young LLP

## PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 2029 Century Park East, Suite 2400, Los Angeles, California 90067.

On April 2, 2007 I served the foregoing document(s) described as:

**DEFENDANT ERNST & YOUNG LLP'S RESPONSES TO  
PLAINTIFF'S REQUESTS FOR PRODUCTION OF DOCUMENTS  
(SET THREE)**

on the interested party(ies) below, using the following means:

Mark R. Thierman, Esq.  
THIERMAN LAW FIRM  
7287 Lakeside Drive  
Reno, Nevada 89511  
Telephone: 775.284.1500  
Facsimile: 775.703.5027

Leon Greenberg, Esq.  
Attorney at Law  
633 South 4<sup>th</sup> Street, Suite 9  
Las Vegas, Nevada 89101  
Telephone: 702.383.6085  
Facsimile: 702.385.1827

☒ BY UNITED STATES MAIL I enclosed the documents in a sealed envelope or package addressed to the respective address(es) of the party(ies) stated above and placed the envelope(s) for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid at Los Angeles, California.

☒ (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on April 2, 2007 at Los Angeles, California.

Sharon Cluff

[Print Name of Person Executing Proof]

[Signature]

## **Exhibit B**

1 CATHERINE A. CONWAY (SBN 98366)  
2 GREGORY W. KNOPP (SBN 237615)  
3 S. ADAM SPIEWAK (SBN 230872)  
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11 aspiewak@akingump.com

12 Attorneys for Defendant, ERNST & YOUNG LLP

13 UNITED STATES DISTRICT COURT  
14  
15 NORTHERN DISTRICT OF CALIFORNIA  
16  
17 SAN JOSE DIVISION

18 DAVID HO, on behalf of himself and others  
19 similarly situated and on behalf of the  
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21 Plaintiff,

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23 ERNST & YOUNG, LLP

24 Defendant.

Case No. CV 05-04867 JF

[Assigned for all purposes to the Honorable  
Jeremy Fogel, Department 3]

**DEFENDANT'S SUPPLEMENTAL  
RESPONSES TO PLAINTIFF'S FIRST  
SET OF INTERROGATORIES**

25 **PROPOUNDING PARTY:**

Plaintiff, David Ho

26 **RESPONDING PARTY:**

Defendant, Ernst & Young LLP

27 **SET NUMBER:**

One

28 **DEFENDANT'S SUPPLEMENTAL RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

CV 05-04867 JF

Pursuant to Federal Rule of Civil Procedure 33, defendant Ernst & Young LLP ("Defendant" or "E&Y"), hereby objects and responds as follows to the Interrogatories Set One propounded by plaintiff David Ho ("Plaintiff").

# **I. PRELIMINARY STATEMENT**

This response reflects only the current status of Defendant's knowledge, understanding and belief respecting the matters about which inquiry has been made. Discovery in this action is ongoing and, consequently, Defendant may not have yet identified all information responsive to these Interrogatories Set One ("Interrogatories"). As discovery in this action proceeds, Defendant anticipates that it may discover additional or different information or documents. Without in any way obligating itself to do so, Defendant reserves the right to amend, modify, supplement, clarify or further explain the response and objections at any time in the future.

Furthermore, this response is without prejudice to the right of Defendant to use or rely on at any time, on any subsequently discovered information, or information omitted from the response as a result of mistake, error, oversight or inadvertence. Defendant further reserves the right to provide additional information and evidence at any time, and to object on appropriate grounds to the introduction of any portion of the response into evidence.

This response is made solely for the purpose of and in relation to discovery conducted in this case. This response is given subject to all appropriate objections (including but not limited to objections concerning competency, privacy, relevancy, specificity, overbreadth, undue burden, materiality, confidential proprietary or trade secret material, or admissibility), which would require the exclusion of any response contained herein. All such objections therefore are reserved and may be interposed at trial.

Defendant responds to this Interrogatory as it currently interprets and understands it. If Plaintiff subsequently asserts an interpretation of the Interrogatory that differs from Defendant's understanding, Defendant reserves its right to supplement its objections and/or response herein.

1 **II. RESPONSES TO INTERROGATORIES**

2 **INTERROGATORY NO. 1**

3 Identify the 7 persons that defendant believes have the most knowledge of the work typically  
4 performed, or assigned to, or undertaken by most of the persons who are (or were) similarly situated to  
5 the plaintiff and who worked in the defendant's Assurance and Advisory Business Services practice  
6 group. If any of those persons are believed to have more knowledge than others specify the persons  
7 with the greater knowledge, if all such persons are believed to have equal knowledge so state. In the  
8 event that defendant believes more than 7 persons have such a level of knowledge the defendant shall  
9 identify any such 7 persons with such level of knowledge who are still in the employ of the defendant  
10 and 7 such persons with such level of knowledge who are no longer in the employ of the defendant (if  
11 there are any such persons no longer in the employ of the defendant, and for all such persons no longer  
12 in the employ of the defendant the last known address of such persons shall be furnished).

13 **RESPONSE TO INTERROGATORY NO. 1**

14 Defendant objects to this Interrogatory on the ground that it is overbroad as to scope and time  
15 and unduly burdensome to the extent that it seeks the names of seven individuals. Defendant further  
16 objects to this Interrogatory on the ground that it is vague and ambiguous as to the term "similarly  
17 situated to the plaintiff and who worked in Defendant's Assurance and Advisory business Services."  
18 Defendant is unaware of anyone who worked in AABS who is similarly situated to plaintiff, a Senior  
19 in International Tax. In addition Defendant objects to this Interrogatory to the extent that it assumes,  
20 without factual basis, that there is "work typically performed, or assigned to, or undertaken by" any  
21 group of persons. Defendant further objects to this Interrogatory to the extent that it seeks information  
22 that would more properly be obtained by noticing depositions under Rule 30(b)(6).

23 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 1**

24 Subject to and notwithstanding the foregoing objections, Defendant responds as follows:  
25 Any individual who works or has worked in Defendant's Assurance and Advisory Business Services  
26 practice group in California has knowledge of the range of duties performed by various staff and senior  
27 employees in the practice group. As a result, Defendant cannot answer this interrogatory without  
28



undue burden. Nevertheless, Defendant identifies the following individual who has significant knowledge regarding this topic:

- Mark Borowski
- Scott Glover

## **INTERROGATORY NO. 2**

Identify the 7 persons that defendant believes have the most knowledge of the work typically performed, or assigned to, or undertaken by most of the persons who are (or were) similarly situated to the plaintiff and who worked in neither the defendant's Assurance and Advisory Business Services practice group or Tax Services practice group. If any of those persons are believed to have more knowledge than others specify the persons with the greater knowledge, if all such persons are believed to have equal knowledge so state. In the event that defendant believes more than 7 persons have such a level of knowledge the defendant shall identify any such 7 persons with such level of knowledge who are still in the employ of the defendant and 7 such persons with such level of knowledge who are no longer in the employ of the defendant (if there are any such persons no longer in the employ of the defendant, and for all such persons no longer in the employ of the defendant the last known address of such persons shall be furnished).

## **RESPONSE TO INTERROGATORY NO. 2**

Defendant objects to this Interrogatory on the ground that it is overbroad as to scope and time and unduly burdensome to the extent that it seeks the names of seven individuals. Defendant further objects to this Interrogatory on the ground that it is vague and ambiguous as to the term "similarly situated to the plaintiff and who worked in neither the defendant's Assurance and Advisory Business Services practice group or [sic] Tax Services practice group." Defendant is unaware of anyone who worked in neither AABS nor Tax who is similarly situated to plaintiff, a Senior in International Tax. Defendant also objects to this Interrogatory to the extent that it assumes, without factual basis, that there is "work typically performed, or assigned to, or undertaken by" any group of persons. Defendant further objects to this Interrogatory to the extent that it seeks information that would more properly be obtained by noticing depositions under Rule 30(b)(6).

**INTERROGATORY NO. 3**

Identify the 7 persons that defendant believes have the most knowledge of the work typically performed, or assigned to, or undertaken by most of the persons who are (or were) similarly situated to the plaintiff and who worked in the defendant's Tax Services practice group. If any of those persons are believed to have more knowledge than others specify the persons with the greater knowledge, if all such persons are believed to have equal knowledge so state. In the event that defendant believes more than 7 persons have such a level of knowledge the defendant shall identify any such 7 persons with such level of knowledge who are still in the employ of the defendant and 7 such persons with such level of knowledge who are no longer in the employ of the defendant (if there are any such persons no longer in the employ of the defendant, and for all such persons no longer in the employ of the defendant the last known address of such persons shall be furnished).

**RESPONSE TO INTERROGATORY NO. 3**

Defendant objects to this Interrogatory on the ground that it is overbroad as to scope and time and unduly burdensome to the extent that it seeks the names of seven individuals. Defendant further objects to this Interrogatory on the ground that it is vague and ambiguous as to the term "similarly situated to the plaintiff." Defendant also objects to this Interrogatory to the extent that it assumes, without factual basis, that there is "work typically performed, or assigned to, or undertaken by" any group of persons. Defendant further objects to this Interrogatory to the extent that it seeks information that would more properly be obtained by noticing depositions under Rule 30(b)(6).

**SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 3**

Subject to and notwithstanding the foregoing objections, Defendant responds as follows:  
Any individual who works or has worked in Defendant's Tax Service practice group in California has knowledge of the range of duties performed by various staff and senior employees in the practice group. As a result, Defendant cannot answer this interrogatory without undue burden. Nevertheless, Defendant identifies the following individual who has significant knowledge regarding this topic:

- Terry Krupczak
- Greg Succa

**INTERROGATORY NO. 4**

Identify the 7 persons that defendant believes have the most knowledge of the tasks, duties, responsibilities, and work that the persons who are (or were) similarly situated to the plaintiff were not to perform or be assigned (such limitation(s) being imposed by the defendant as a matter of policy). If any of those persons are believed to have more knowledge than others specify the persons with the greater knowledge, if all such persons are believed to have equal knowledge so state. In the event that defendant believes more than 7 persons have such a level of knowledge the defendant shall identify any such 7 persons with such level of knowledge who are still in the employ of the defendant and 7 such persons with such level of knowledge who are no longer in the employ of the defendant (if there are any such persons no longer in the employ of the defendant, and for all such persons no longer in the employ of the defendant the last known address of such persons shall be furnished).

**RESPONSE TO INTERROGATORY NO. 4**

Defendant objects to this Interrogatory on the ground that it is overbroad as to scope and time and unduly burdensome to the extent that it seeks the names of seven individuals. Defendant further objects to this Interrogatory on the ground that it is vague and ambiguous as to the term "similarly situated to the plaintiff." Defendant also objects to this Interrogatory to the extent that it assumes, without factual basis, that there are "tasks, duties, responsibilities, and work that [a group of individuals] were not to perform or be assigned (such limitation(s) being imposed by the defendant as a matter of policy". Defendant further objects to this Interrogatory to the extent that it seeks information that would more properly be obtained by noticing depositions under Rule 30(b)(6).

**INTERROGATORY NO. 5**

Identify the 7 persons that defendant believes have the most knowledge of the defendant's hiring criteria for the persons similarly situated to the plaintiff, including the prior experience and/or education that was needed by most of the persons who are (or were) similarly situated to the plaintiff and who were hired by the defendant to work in the defendant's Assurance and Advisory Business Services practice group. If any of those persons are believed to have more knowledge than others specify the persons with the greater knowledge, if all such persons are believed to have equal knowledge so state. In the event that defendant believes more than 7 persons have such a level of

1 knowledge the defendant shall identify any such 7 persons with such level of knowledge who are still  
 2 in the employ of the defendant and 7 such persons with such level of knowledge who are no longer in  
 3 the employ of the defendant (if there are any such persons no longer in the employ of the defendant,  
 4 and for all such persons no longer in the employ of the defendant the last known address of such  
 5 persons shall be furnished).

6 **RESPONSE TO INTERROGATORY NO. 5**

7 Defendant objects to this Interrogatory on the ground that it is overbroad as to scope and time  
 8 and unduly burdensome to the extent that it seeks the names of seven individuals. Defendant further  
 9 objects to this Interrogatory on the ground that it is vague and ambiguous as to the term "similarly  
 10 situated to the plaintiff and who were hired by the defendant to work in the defendant's Assurance and  
 11 Advisory Business Services practice group." Defendant is unaware of anyone who was hired to work  
 12 in AABS who is similarly situated to plaintiff, a Senior in International Tax. Defendant also objects to  
 13 this Interrogatory to the extent that it assumes, without factual basis, that there is "work typically  
 14 performed, or assigned to, or undertaken by" any group of persons. Defendant further objects to this  
 15 Interrogatory to the extent that it seeks information that would more properly be obtained by noticing  
 16 depositions under Rule 30(b)(6).

17 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 5**

18 Subject to and notwithstanding the foregoing objections, Defendant responds as follows:  
 19 Any individual who works or has worked in Defendant's Assurance and Advisory Business Services  
 20 practice group in California has knowledge of the experience and education of staff and senior  
 21 employees in the practice group. As a result, Defendant cannot answer this interrogatory without  
 22 undue burden. Nevertheless, Defendant identifies the following individual who has significant  
 23 knowledge regarding this topic:

- 24 • Jeffrey Rosen

25 **INTERROGATORY NO. 6**

26 Identify the 7 persons that defendant believes have the most knowledge of the defendant's  
 27 hiring criteria for the persons similarly situated to the plaintiff, including the prior experience and/or  
 28 education that was needed by most of the persons who are (or were) similarly situated to the plaintiff

1 and who were hired by the defendant to work in the defendant's Tax Service practice group. If any of  
 2 those persons are believed to have more knowledge than others specify the persons with the greater  
 3 knowledge, if all such persons are believed to have equal knowledge so state. In the event that  
 4 defendant believes more than 7 persons have such a level of knowledge the defendant shall identify  
 5 any such 7 persons with such level of knowledge who are still in the employ of the defendant and 7  
 6 such persons with such level of knowledge who are no longer in the employ of the defendant (if there  
 7 are any such persons no longer in the employ of the defendant, and for all such persons no longer in  
 8 the employ of the defendant the last known address of such persons shall be furnished).

9 **RESPONSE TO INTERROGATORY NO. 6**

10 Defendant objects to this Interrogatory on the ground that it is overbroad as to scope and time  
 11 and unduly burdensome to the extent that it seeks the names of seven individuals. Defendant further  
 12 objects to this Interrogatory on the ground that it is vague and ambiguous as to the term "similarly  
 13 situated to the plaintiff and who were hired by the defendant to work in the defendant's Tax Service  
 14 practice group." Defendant also objects to this Interrogatory to the extent that it assumes, without  
 15 factual basis, that there is "work typically performed, or assigned to, or undertaken by" any group of  
 16 persons. Defendant further objects to this Interrogatory to the extent that it seeks information that  
 17 would more properly be obtained by noticing depositions under Rule 30(b)(6).

18 **SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 6**

19 Subject to and notwithstanding the foregoing objections, Defendant responds as follows:  
 20 Any individual who works or has worked in Defendant's Tax Service practice group in California has  
 21 knowledge of the experience and education of staff and senior employees in the practice group. As a  
 22 result, Defendant cannot answer this interrogatory without undue burden. Nevertheless, Defendant  
 23 identifies the following individual who has significant knowledge regarding this topic:

- 24 • Terry Krupczak

25 **INTERROGATORY NO. 7**

26 Identify the 7 persons that defendant believes have the most knowledge of the defendant's  
 27 hiring criteria for the persons similarly situated to the plaintiff, including the prior experience and/or  
 28 education that was needed by most of the persons who are (or were) similarly situated to the plaintiff



1 and who were hired by the defendant to work in neither the defendant's Assurance and Advisory  
 2 Business Services practice group nor its Tax Service practice group. If any of those persons are  
 3 believed to have more knowledge than others specify the persons with the greater knowledge, if all  
 4 such persons are believed to have equal knowledge so state. In the event that defendant believes more  
 5 than 7 persons have such a level of knowledge the defendant shall identify any such 7 persons with  
 6 such level of knowledge who are still in the employ of the defendant and 7 such persons with such  
 7 level of knowledge who are no longer in the employ of the defendant (if there are any such persons no  
 8 longer in the employ of the defendant, and for all such persons no longer in the employ of the  
 9 defendant the last known address of such persons shall be furnished).

#### 10 **RESPONSE TO INTERROGATORY NO. 7**

11 Defendant objects to this Interrogatory on the ground that it is overbroad as to scope and time  
 12 and unduly burdensome to the extent that it seeks the names of seven individuals. Defendant further  
 13 objects to this Interrogatory on the ground that it is vague and ambiguous as to the term "similarly  
 14 situated to the plaintiff and who were hired by the defendant to work in neither the defendant's  
 15 Assurance and Advisory Business Services practice group nor its Tax Service practice group."  
 16 Defendant is unaware of anyone who worked in neither AABS nor Tax who is similarly situated to  
 17 plaintiff, a Senior in International Tax. Defendant also objects to this Interrogatory to the extent that it  
 18 assumes, without factual basis, that there is "work typically performed, or assigned to, or undertaken  
 19 by" any group of persons. Defendant further objects to this Interrogatory to the extent that it seeks  
 20 information that would more properly be obtained by noticing depositions under Rule 30(b)(6).

#### 21 **INTERROGATORY NO. 8**

22 Identify witnesses who may on the defendants' behalf offer expert testimony in connection with  
 23 the trial of this matter, and for each such expert witness provide:

- 24 a) The name, residential address, business address, qualifications and area of specialty of  
 25 such expert witness;
- 26 b) The substance of the facts and opinion to which said expert witness is expected to  
 27 testify and the facts and/or grounds upon which each witness bases his or her opinions; and  
 28



1 c) Identify all reports, letters, memos, correspondence and/or documents of any kind  
2 prepared by or for each such witness with regard to any matter at issue in this case.

3 **RESPONSE TO INTERROGATORY NO. 8**

4 Defendant objects to this Interrogatory on the ground that it is premature.

5 Subject to and without waiving the foregoing objections, Defendant responds as follows:

6 Defendant has not at this time identified any witnesses who may offer expert testimony in  
7 connection with the trial of this matter. Defendant expressly reserves its right to identify such  
8 witness(es) at a later date, and will supplement its response to this Interrogatory accordingly.

9 **INTERROGATORY NO. 8 [INCORRECTLY NUMBERED IN ORIGINAL]**

10 Set forth the name and last known address of each person similarly situated to the plaintiff who  
11 is no longer employed by the defendant and for each such person specify their position (job title (s) and  
12 department(s) employed in) while employed by the defendant.

13 **RESPONSE TO INTERROGATORY NO. 8 [INCORRECTLY NUMBERED IN ORIGINAL]**

14 Defendant objects to this Interrogatory on the ground that it is unduly burdensome. Defendant  
15 further objects to this Interrogatory to the extent that it seeks information that is not relevant to the  
16 subject matter of this dispute and is not reasonably calculated to lead to the discovery of admissible  
17 evidence. Defendant further objects to this Interrogatory on the ground that it is overbroad and  
18 premature because a class has not been certified in this action. Defendant further objects to this  
19 Interrogatory on the ground that it violates third-party rights to privacy. Defendant also objects to this  
20 Interrogatory on the ground that it is duplicative of discovery sought as part of Request for Production  
21 No. 7.

22 Dated: April 25, 2007

AKIN GUMP STRAUSS HAUSER & FELD LLP  
Catherine A. Conway  
Gregory W. Knopp  
S. Adam Spiewak

25 By Catherine A. Conway  
26 Catherine A. Conway  
27 Attorneys for Defendant Ernst & Young LLP  
28

## PROOF OF SERVICE

## STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 2029 Century Park East, Suite 2400, Los Angeles, California 90067. On April 25, 2007, I served the foregoing document(s) described as: **DEFENDANT'S SUPPLEMENTAL RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES** on the interested party(ies) below, using the following means:

Mark R. Thierman, Esq.  
 THIERMAN LAW FIRM  
 7287 Lakeside Drive  
 Reno, Nevada 89511  
 Telephone: 775.284.1500  
 Facsimile: 775.703.5027

Leon Greenberg, Esq.  
 Attorney at Law  
 633 South 4<sup>th</sup> Street, Suite 9  
 Las Vegas, Nevada 89101  
 Telephone: 702.383.6085  
 Facsimile: 702.385.1827

☒ BY UNITED STATES MAIL I enclosed the documents in a sealed envelope or package addressed to the respective address(es) of the party(ies) stated above and placed the envelope(s) for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid at Los Angeles, California.

☒ (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on April 25, 2007 at Los Angeles, California.

Tracy Howe

[Print Name of Person Executing Proof]

[Signature]

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and  
 4 not a party to the within action; my business address is: 2029 Century Park East, Suite 2400, Los  
 Angeles, California 90067. On May 8, 2007 I served the foregoing document(s) described as:  
 5 **DECLARATION OF GREGORY W. KNOPP IN SUPPORT OF DEFENDANT ERNST &  
 YOUNG LLP'S OPPOSITION TO PLAINTIFF DAVID HO'S THIRD MOTION TO COMPEL**  
 6 on the interested party(ies) below, using the following means:

7 **All parties identified for Notice of Electronic Filing generated  
 by the Court's CM/ECF system under the referenced case  
 8 caption and number.**

9 ☒ BY ELECTRONIC MAIL OR ELECTRONIC TRANSMISSION. Based on a court order or an agreement of the parties  
 10 to accept service by e-mail or electronic transmission, I caused the document(s) to be sent to the  
 respective e-mail address(es) of the party(ies) as stated above. I did not receive, within a reasonable  
 11 time after the transmission, any electronic message or other indication that the transmission was  
 unsuccessful.

12 I declare that I am employed in the office of a member of the bar of this court at whose  
 direction the service was made.

13 Executed on May 8, 2007 at Los Angeles, California.

14  
 15 Tracy Howe

16 [Print Name of Person Executing Proof]

/s/ Tracy Howe

[Signature]